

111TH CONGRESS
1ST SESSION

H. R. 4389

To amend the Internal Revenue Code of 1986 to allow a credit against income tax to taxpayers using energy derived from biomass to power domestic paper, pulp and paperboard manufacturing process facilities.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mr. MURPHY of New York introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax to taxpayers using energy derived from biomass to power domestic paper, pulp and paperboard manufacturing process facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Green Energy Paper
5 Manufacturing Act of 2009”.

1 **SEC. 2. CREDIT FOR USING ENERGY DERIVED FROM BIO-**
 2 **MASS TO POWER DOMESTIC PAPER, PULP**
 3 **AND PAPERBOARD MANUFACTURING PROC-**
 4 **ESS FACILITIES.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
 6 chapter A of chapter 1 of the Internal Revenue Code of
 7 1986 (relating to business-related credits) is amended by
 8 inserting after section 45Q the following new section:

9 **“SEC. 45R. ENERGY DERIVED FROM BIOMASS TO POWER**
 10 **DOMESTIC PAPER, PULP AND PAPERBOARD**
 11 **MANUFACTURING PROCESS FACILITIES.**

12 “(a) GENERAL RULE.—For purposes of section 38,
 13 the renewable green-energy pulp, paper or paperboard
 14 manufacturing credit for any taxable year is an amount
 15 equal to the product of—

16 “(1) \$4, multiplied by

17 “(2) the number of million Btus of steam and
 18 electricity—

19 “(A) produced by the taxpayer—

20 “(i) from biomass fuels, and

21 “(ii) at a qualified paper product fa-
 22 cility (or at an energy production facility
 23 which is located in the United States and
 24 which is under contract to provide steam
 25 or electricity to any qualified paper prod-
 26 uct facility) during the 10-year period be-

1 ginning on the later of the date of the en-
 2 actment of this section or the date the fa-
 3 cility was originally placed in service, and
 4 “(B) used by the taxpayer at, or provided
 5 by the taxpayer to, any pulp, paper or paper-
 6 board manufacturing facility located in the
 7 United States.

8 “(b) MAXIMUM ANNUAL CREDIT PER FACILITY.—

9 “(1) IN GENERAL.—The credit determined
 10 under this section for energy used during the taxable
 11 year at any qualified paper product facility shall not
 12 exceed \$25,000,000.

13 “(2) COORDINATION WITH ADVANCE PAY-
 14 MENTS.—The dollar amount in paragraph (1) shall
 15 be reduced for any taxable year by the aggregate of
 16 the claims made under section 6429 for periods dur-
 17 ing such year with respect to such facility.

18 “(c) DENIAL OF DOUBLE BENEFIT.—Btus may not
 19 be taken into account under subsection (a)(2) if any credit
 20 is allowed under section 40, 40A, 45, or 6426 for the elec-
 21 tricity generation, the feedstock, or for the blending of the
 22 feedstock associated with the Btus.

23 “(d) DEFINITIONS.—For purposes of this section—

24 “(1) BIOMASS FUELS.—

1 “(A) IN GENERAL.—The term ‘biomass
2 fuels’ means any liquid, solid, or gaseous fuel
3 derived from biomass (as defined in section
4 45K(c)(3)) or from biomass process residuals
5 from recycled and other paper facilities.

6 “(B) COFIRING WITH FOSSIL FUELS.—In
7 the case of fossil fuel burned in conjunction
8 with any biomass fuel, only the Btus attrib-
9 utable to biomass fuel may be taken into ac-
10 count under subsection (a).

11 “(2) QUALIFIED PAPER PRODUCT FACILITY.—
12 The term ‘qualified paper product facility’ means
13 any pulp, paper, or paperboard manufacturing facil-
14 ity—

15 “(A) which is originally placed in service
16 before the close of the 5-year period beginning
17 on the date of the enactment of this section,
18 and

19 “(B) which is located in the United States.

20 “(e) REINVESTMENT REQUIREMENT.—

21 “(1) IN GENERAL.—The tax imposed by this
22 chapter for any taxable year shall be increased by
23 the recapture amount (if any) for the 3rd preceding
24 taxable year.

1 “(2) RECAPTURE AMOUNT.—For purposes of
2 paragraph (1), the term ‘recapture amount’ means,
3 with respect to any taxable year, the excess (if any)
4 of—

5 “(A) 50 percent of the sum of—

6 “(i) the credit determined under this
7 section for the taxable year, and

8 “(ii) the aggregate payments made
9 under section 6429 to the taxpayer for
10 steam and electricity produced during such
11 year, over

12 “(B) the aggregate qualified reinvestment
13 made by the taxpayer during such year and the
14 3 succeeding taxable years (reduced by the
15 qualified reinvestment taken into account in de-
16 termining the recapture amount for any prior
17 taxable year).

18 “(3) QUALIFIED REINVESTMENT.—

19 “(A) IN GENERAL.—For purposes of para-
20 graph (2), the term ‘qualified reinvestment’
21 means the basis of renewable energy projects,
22 energy efficiency projects and other environ-
23 mental improvements at facilities owned by the
24 taxpayer and located in the United States.

1 “(B) REDUCTION FOR FEDERAL BENE-
 2 FITS.—The basis otherwise taken into account
 3 under subparagraph (A) shall be reduced by the
 4 aggregate of—

5 “(i) the credits under this chapter,
 6 and

7 “(ii) Federal grants,
 8 allowed or received on account of the invest-
 9 ment.

10 “(4) WHEN REINVESTMENTS TAKEN INTO AC-
 11 COUNT.—

12 “(A) IN GENERAL.—Qualified reinvestment
 13 shall be taken into account when the property
 14 is placed in service.

15 “(B) ELECTION.—At the election of the
 16 taxpayer with respect to any qualified reinvest-
 17 ment which is constructed by the taxpayer—

18 “(i) the estimated amount of such in-
 19 vestment shall be treated as made when
 20 the physical work of such construction be-
 21 gins, and

22 “(ii) proper adjustments shall be
 23 made to such amount in the taxable year
 24 in which such investment is placed in serv-

1 ice in any case where such estimate is
2 greater or less than the proper amount.

3 “(f) MULTIPLE FACILITY OWNERS.—If more than 1
4 person has an ownership interest in a qualified paper
5 product facility, the dollar limitation in subsection (b)
6 shall be allocated among such persons under regulations
7 prescribed by the Secretary.”.

8 (b) CREDIT MADE PART OF GENERAL BUSINESS
9 CREDIT AND ALLOWABLE AGAINST MINIMUM TAX.—

10 (1) IN GENERAL.—Subsection (b) of section 38
11 of such Code (relating to current year business cred-
12 it) is amended by striking “plus” at the end of para-
13 graph (34), by striking the period at the end of
14 paragraph (35) and inserting “, plus”, and by add-
15 ing at the end the following new paragraph:

16 “(36) the renewable green-energy pulp, paper
17 or paperboard manufacturing credit determined
18 under section 45R.”.

19 (2) CREDIT ALLOWABLE AGAINST MINIMUM
20 TAX.—Subparagraph (B) of section 38(c)(4) of such
21 Code (relating to specified credits) is amended by
22 striking “and” at the end of clause (vii), by striking
23 the period at the end of clause (viii) and inserting
24 “, and”, and by adding at the end the following new
25 clause:

1 “(ix) the credit determined under sec-
 2 tion 45R.”.

3 (c) CLERICAL AMENDMENT.—The table of sections
 4 for subpart D of part IV of subchapter A of chapter 1
 5 of such Code is amended by inserting after the item relat-
 6 ing to section 45Q the following new item:

“Sec. 45R. Energy derived from biomass to power domestic paper, pulp and pa-
 perboard manufacturing process facilities.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to energy produced after December
 9 31, 2009, in taxable years ending after such date.

10 **SEC. 3. ADVANCE PAYMENTS FOR LIQUID BIOMASS USED**
 11 **AS A FUEL AT PAPER PRODUCT FACILITIES.**

12 (a) IN GENERAL.—Subchapter B of chapter 65 of the
 13 Internal Revenue Code of 1986 (relating to abatements,
 14 credits, and refunds) is amended by striking section 6429
 15 and inserting the following new section:

16 **“SEC. 6429. ADVANCE PAYMENTS FOR LIQUID BIOMASS**
 17 **USED AS A FUEL AT PAPER PRODUCT FACILI-**
 18 **TIES.**

19 “(a) IN GENERAL.—If any person uses any qualified
 20 biomass liquid as a fuel to produce steam or electricity
 21 for use at any pulp, paper or paperboard manufacturing
 22 facility located in the United States, the Secretary shall
 23 pay (without interest) to such person an amount equal
 24 to—

1 “(1) \$4, multiplied by

2 “(2) the number of million Btus of steam and
3 electricity so produced.

4 “(b) MAXIMUM ANNUAL PAYMENTS PER FACIL-
5 ITY.—The amount paid by the Secretary under this sec-
6 tion for energy used during any taxable year at any quali-
7 fied paper product facility shall not exceed \$25,000,000.

8 “(c) QUALIFIED BIOMASS LIQUID.—For purposes of
9 this section, the term ‘qualified biomass liquid’ means any
10 liquid—

11 “(1) which is derived from—

12 “(A) biomass (as defined in section
13 45K(c)(3)), or

14 “(B) biomass process residuals from recy-
15 cled and other paper facilities if such residuals
16 meet the test of liquids set forth in ASTM
17 D4359–90, and

18 “(2) which is produced by such person at a
19 qualified paper product facility (as defined in section
20 45R(d)(2)) during the 10-year period beginning on
21 the later of the date of the enactment of this section
22 or the date the facility was originally placed in serv-
23 ice.

24 “(d) TIME FOR FILING CLAIMS; PERIOD COV-
25 ERED.—

1 “(1) IN GENERAL.—A claim may be filed under
2 this section by any person for any period—

3 “(A) for which \$200 or more is payable,
4 and

5 “(B) which is not less than 1 week.

6 In the case of an electronic claim, this paragraph
7 shall be applied without regard to subparagraph (A).

8 “(2) PAYMENT OF CLAIM.—Notwithstanding
9 subsection (a), if the Secretary has not paid pursu-
10 ant to a claim filed under this section within 45 days
11 of the date of the filing of such claim (20 days in
12 the case of an electronic claim), the claim shall be
13 paid with interest from such date determined by
14 using the overpayment rate and method under sec-
15 tion 6621.

16 “(3) TIME FOR FILING CLAIM.—No claim filed
17 under this subsection shall be allowed unless filed on
18 or before the last day of the first quarter following
19 the earliest quarter included in the claim.

20 “(e) COFIRING WITH FOSSIL FUELS.—In the case
21 of fossil fuel burned in conjunction with any qualified bio-
22 mass liquid, only the Btus attributable to the qualified bio-
23 mass liquid may be taken into account under subsection
24 (a).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) The table of sections for such subchapter B
2 is amended by striking the item relating to section
3 6429 and inserting the following new item:

“Sec. 6429. Advance payments for liquid biomass used as a fuel at paper prod-
uct facilities.”.

4 (2) Section 1324(b)(2) of title 31, United
5 States Code, is amended by inserting “6429,” after
6 “6428,”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to energy produced after December
9 31, 2009, in taxable years ending after such date.

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